

Senate File 2166 - Introduced

SENATE FILE 2166

BY McCOY

A BILL FOR

1 An Act providing for the regulation of commercial
2 establishments keeping nonagricultural animals, providing
3 for fees and appropriations, and making penalties
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.1, subsection 1, paragraph c, Code
2 2014, is amended to read as follows:

3 c. Provide that all ~~vertebrate~~ animals consigned to pet
4 shops are provided humane care and treatment by regulating the
5 transportation, sale, purchase, housing, care, handling, and
6 treatment of such animals by pet shops.

7 Sec. 2. Section 162.2, subsections 5, 6, 14, 15, 16, 17,
8 18, 23, 25, 26, and 27, Code 2014, are amended by striking the
9 subsections.

10 Sec. 3. Section 162.2, subsections 3, 10, and 11, Code 2014,
11 are amended to read as follows:

12 3. "*Animal shelter*" means a facility which is used to
13 receive, rescue, house or contain dogs or cats, or both, and
14 transfer animals and which is owned, operated, or maintained by
15 an incorporated humane society, animal welfare society, society
16 for the prevention of cruelty to animals, or other nonprofit
17 organization devoted to the welfare, protection, and humane
18 treatment of such animals.

19 10. a. "*Commercial kennel*" means a kennel which performs
20 grooming, boarding, or training services for dogs or cats in
21 return for a consideration.

22 b. "*Commercial kennel*" does not include a kennel in which
23 a dog or cat remains in the custody of the owner of the dog or
24 cat.

25 11. a. "*Dealer*" means any person who is engaged in the
26 business of buying for resale or selling or exchanging dogs or
27 cats, or both, as a principal or agent, or who claims to be so
28 engaged.

29 b. "*Dealer*" does not include a person operating on a
30 nonprofit basis whose primary purpose is to provide adoptive
31 homes for dogs or cats.

32 Sec. 4. Section 162.2, Code 2014, is amended by adding the
33 following new subsections:

34 NEW SUBSECTION. 2A. "*Animal*" means vertebrate animal other
35 than members of the equine, bovine, ovine, and porcine species,

1 and ostriches, rheas, emus, and poultry.

2 NEW SUBSECTION. 16A. "*Licensee*" means a boarding kennel,
3 commercial breeder, commercial kennel, dealer, pet shop, or
4 public auction who must operate pursuant to a license issued
5 and renewed by the department pursuant to section 162.2A.

6 NEW SUBSECTION. 16B. "*Local authority*" means the same as
7 defined in section 717B.1.

8 Sec. 5. Section 162.2, subsection 19, Code 2014, is amended
9 to read as follows:

10 19. "*Pet shop*" means an establishment where a dog, cat,
11 rabbit, rodent, nonhuman primate, fish other than live bait,
12 bird, or other ~~vertebrate~~ animal is bought, sold, exchanged,
13 or offered for sale. However, a pet shop does not include an
14 establishment if one of the following applies:

15 *a.* The establishment receives less than five hundred dollars
16 from the sale or exchange of ~~vertebrate~~ animals during a
17 twelve-month period.

18 *b.* The establishment sells or exchanges less than six
19 animals during a twelve-month period.

20 Sec. 6. Section 162.2A, subsections 1, 2, 4, and 5, Code
21 2014, are amended to read as follows:

22 1. The department shall provide for the ~~operation of~~
23 issuance or renewal of a license to operate a commercial
24 ~~establishment by issuing or renewing an authorization,~~
25 ~~including any of the following:.~~

26 ~~*a.* A certificate of registration for a pound, animal~~
27 ~~shelter, or research facility.~~

28 ~~*b.* A state license for a boarding kennel, commercial kennel,~~
29 ~~or pet shop.~~

30 ~~*c.* A state license or permit for a commercial breeder,~~
31 ~~dealer, or public auction. A federal licensee must apply for~~
32 ~~and be issued either a permit or a state license in lieu of a~~
33 ~~permit.~~

34 2. A person must be issued a ~~separate state license,~~
35 ~~certificate of registration, or permit for each~~ all commercial

1 ~~establishment~~ establishments owned or operated by the person.

2 4. The ~~authorization~~ license expires on an annual basis
3 as provided by the department, and must be renewed by the
4 commercial establishment on an annual basis on or before the
5 ~~authorization's~~ license's expiration date.

6 5. ~~a. A commercial establishment applying for the issuance~~
7 ~~or renewal of a permit shall provide the department with proof~~
8 ~~that the person is a federal licensee.~~

9 ~~b. The department shall not require that it must enter onto~~
10 ~~the premises of a commercial establishment in order to issue a~~
11 ~~permit. The department shall not require that it must enter~~
12 ~~onto the premises of a commercial establishment in order to~~
13 ~~renew a permit, unless it has reasonable cause to monitor the~~
14 ~~commercial establishment as provided in section 162.10C. The~~
15 department may deny an application for the issuance or renewal
16 of a license, if the department determines that the applicant
17 is in violation of this chapter or has not demonstrated that
18 the applicant will comply with the provisions of this chapter.

19 Sec. 7. Section 162.2A, subsection 3, unnumbered paragraph
20 1, Code 2014, is amended to read as follows:

21 A person must apply for the issuance or renewal of ~~an~~
22 ~~authorization~~ a license on forms and according to procedures
23 required by rules adopted by the department. The application
24 shall contain information required by the department, including
25 but not limited to all of the following:

26 Sec. 8. Section 162.2A, subsection 3, paragraph c, Code
27 2014, is amended to read as follows:

28 ~~c. The name, address, and type of establishment covered by~~
29 ~~the authorization~~ license.

30 Sec. 9. Section 162.2B, Code 2014, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **162.2B Fees.**

33 1. The department shall establish, assess, and collect
34 fees for issuing or renewing a license as provided in section
35 162.2A. The fee assessed under this section shall include a

1 base amount plus any applicable scheduled amount.

2 2. *a.* For an animal shelter, the base amount is
3 seventy-five dollars plus a scheduled amount computed by
4 calculating the number of dogs and cats kept by the animal
5 shelter as follows:

6 (1) For at least one dog or cat but not more than fifty dogs
7 and cats, fifty dollars.

8 (2) For more than fifty dogs and cats but not more than
9 seventy-five dogs and cats, one hundred twenty dollars.

10 (3) For more than seventy-five dogs and cats but not more
11 than one hundred dogs and cats, two hundred fifty dollars.

12 (4) For more than one hundred dogs and cats but not more
13 than two hundred fifty dogs and cats, five hundred dollars.

14 (5) For more than two hundred fifty dogs and cats but not
15 more than four hundred dogs and cats, one thousand dollars.

16 (6) For more than four hundred dogs and cats, one thousand
17 two hundred fifty dollars.

18 *b.* A dog or cat is included in the calculation under
19 paragraph "*a*" if the dog or cat is recorded as on hand for
20 public adoption during the most recent inspection of the animal
21 shelter by the department. However, a dog or cat is not
22 included in the calculation if the dog or cat is recorded as
23 kept in foster care.

24 *c.* The base amount is assessed on all locations owned
25 or operated by the animal shelter. The scheduled amount is
26 assessed on the total number of dogs and cats on hand at all
27 locations owned or operated by the animal shelter.

28 3. *a.* For a pound, the base amount equals seventy-five
29 dollars.

30 *b.* A pound shall not be assessed a scheduled fee.

31 *c.* A single base amount is assessed on all locations owned
32 or operated by the pound.

33 4. *a.* For a research facility, the base amount equals
34 seventy-five dollars.

35 *b.* A research facility shall not be assessed a scheduled

1 fee.

2 *c.* A single base amount is assessed on all locations owned
3 or operated by the research facility.

4 5. *a.* For a commercial breeder or dealer, the base amount
5 equals one hundred seventy-five dollars and the scheduled
6 amount is computed by calculating the number of dogs and cats
7 kept by the commercial breeder or dealer as follows:

8 (1) For at least one dog or cat but not more than fifty dogs
9 and cats, one hundred dollars.

10 (2) For more than fifty dogs and cats but not more than
11 seventy-five dogs and cats, two hundred fifty dollars.

12 (3) For more than seventy-five dogs and cats but not more
13 than one hundred dogs and cats, five hundred dollars.

14 (4) For more than one hundred dogs and cats but not more
15 than two hundred fifty dogs and cats, one thousand dollars.

16 (5) For more than two hundred fifty dogs and cats but not
17 more than four hundred dogs and cats, two thousand dollars.

18 (6) For more than four hundred dogs and cats, two thousand
19 five hundred dollars.

20 *b.* A dog or cat is included in the calculation under
21 paragraph "*a*" if the dog or cat is recorded as an adult on
22 hand for breeding during the most recent inspection of the
23 commercial breeder or dealer by the department of agriculture
24 and land stewardship or the United States department of
25 agriculture.

26 *c.* Notwithstanding paragraph "*b*", a greyhound dog owned,
27 kept, bred, or transported by a commercial breeder for
28 pari-mutuel wagering at a racetrack as provided in chapter 99D
29 is not included in the calculation. Rather the commercial
30 breeder shall pay a different fee for the issuance or renewal
31 of a license as provided in rules adopted by the department.

32 *d.* The base amount is assessed on each location owned or
33 operated by the commercial breeder or dealer. The scheduled
34 amount is assessed on the total number of dogs or cats kept at
35 all locations owned or operated by the commercial breeder or

1 dealer.

2 6. a. For a pet shop, the base amount equals one hundred
3 seventy-five dollars and the scheduled amount is computed by
4 calculating the number of dogs and cats kept by the pet shop as
5 follows:

6 (1) For at least one dog or cat but not more than twenty
7 dogs and cats, one hundred dollars.

8 (2) For more than twenty dogs and cats but not more than
9 forty dogs and cats, two hundred fifty dollars.

10 (3) For more than forty dogs and cats, five hundred dollars.

11 b. A dog or cat is included in the calculation under
12 paragraph "a" if the dog or cat is recorded as on hand for sale
13 to the general public during the most recent inspection of the
14 pet shop by the department.

15 c. The base amount is assessed on each location owned or
16 operated by the pet shop. The scheduled amount is assessed on
17 the total number of dogs or cats kept at all locations owned or
18 operated by the pet shop.

19 7. For a boarding kennel, commercial kennel, or public
20 auction, the base amount equals one hundred seventy-five
21 dollars and a scheduled amount is not applicable.

22 8. The moneys collected by the department under this section
23 shall be credited to the commercial establishment fund created
24 in section 162.2C.

25 9. The fees provided in this section shall be considered
26 repayment receipts as defined in section 8.2. The general
27 assembly shall appropriate moneys to the department each fiscal
28 year necessary for the administration and enforcement of this
29 chapter.

30 Sec. 10. Section 162.2C, subsection 3, Code 2014, is amended
31 to read as follows:

32 3. Moneys in the fund are appropriated to the department and
33 shall be used exclusively to ~~carry-out~~ do all of the following:

34 a. Administer and enforce the provisions of this chapter
35 as determined and directed by the department, and shall not

1 require further special authorization by the general assembly.

2 b. Fully fund the animal rescue remediation fund as provided
3 in section 717B.13. For the fiscal year beginning July 1,
4 2014, and each fiscal year thereafter, the department shall
5 transfer at least twenty thousand dollars from moneys in the
6 commercial establishment fund to the animal rescue remediation
7 fund created in section 717B.13. However, if on March 1 the
8 unobligated and unencumbered balance in the animal rescue
9 remediation fund equals more than sixty thousand dollars, the
10 department shall suspend the transfer for the subsequent fiscal
11 year. If on March 1 of a fiscal year for which the transfer
12 is suspended, the unobligated and unencumbered balance in the
13 animal rescue remediation fund is less than forty thousand
14 dollars, the department shall resume the transfer for the
15 subsequent fiscal year.

16 Sec. 11. Section 162.3, Code 2014, is amended to read as
17 follows:

18 **162.3 Operation of a pound — ~~certificate of registration~~**
19 **license.**

20 A pound shall only operate pursuant to a ~~certificate of~~
21 ~~registration~~ license issued or renewed by the department as
22 provided in section 162.2A. A pound may sell dogs or cats
23 under its control if sales are allowed by the department. The
24 pound shall maintain records as required by the department in
25 order for the department to ensure the pound's compliance with
26 the provisions of this chapter.

27 Sec. 12. Section 162.4, Code 2014, is amended to read as
28 follows:

29 **162.4 Operation of an animal shelter — ~~certificate of~~**
30 **registration license.**

31 An animal shelter shall only operate pursuant to a
32 ~~certificate of registration~~ license issued or renewed by the
33 department as provided in section 162.2A. An animal shelter
34 may sell dogs or cats if sales are allowed by the department.
35 The animal shelter facility shall maintain records as required

1 by the department in order for the department to ensure
2 the animal shelter's compliance with the provisions of this
3 chapter.

4 Sec. 13. Section 162.4A, Code 2014, is amended to read as
5 follows:

6 **162.4A Operation of a research facility — ~~certificate of~~**
7 **registration license.**

8 A research facility shall only operate pursuant to a
9 ~~certificate of registration license~~ issued by the department
10 as provided in section 162.2A. The research facility shall
11 maintain records as required by the department in order for
12 the department to ensure the research facility's compliance
13 with the provisions of this chapter. A research facility shall
14 not purchase a dog or cat from a commercial establishment that
15 does not have a valid authorization license issued or renewed
16 under this chapter or a similar authorization license issued or
17 renewed by another state.

18 Sec. 14. Section 162.5, Code 2014, is amended to read as
19 follows:

20 **162.5 Operation of a pet shop — ~~state~~ license.**

21 A pet shop shall only operate pursuant to a ~~state~~ license
22 issued or renewed by the department pursuant to section
23 162.2A. The pet shop shall maintain records as required by the
24 department in order for the department to ensure the pet shop's
25 compliance with the provisions of this chapter. A pet shop
26 shall not purchase a dog or cat from a commercial establishment
27 that does not have a valid authorization license issued or
28 renewed under this chapter or a similar authorization license
29 issued or renewed by another state.

30 Sec. 15. Section 162.5A, Code 2014, is amended to read as
31 follows:

32 **162.5A Operation of a boarding kennel — ~~state~~ license.**

33 A boarding kennel shall only operate pursuant to a ~~state~~
34 license issued by the department as provided in section 162.2A.
35 The boarding kennel shall maintain records as required by

1 the department in order for the department to ensure the
2 boarding kennel's compliance with the provisions of this
3 chapter. A boarding kennel shall not purchase a dog or cat
4 from a commercial establishment that does not have a valid
5 authorization license issued or renewed under this chapter or
6 a similar authorization license issued or renewed by another
7 state.

8 Sec. 16. Section 162.6, Code 2014, is amended to read as
9 follows:

10 **162.6 Operation of a commercial kennel — state license.**

11 A commercial kennel shall only operate pursuant to a state
12 license issued or renewed by the department as provided in
13 section 162.2A. A commercial kennel shall maintain records
14 as required by the department in order for the department to
15 ensure the commercial kennel's compliance with the provisions
16 of this chapter. A commercial kennel shall not purchase a
17 dog or cat from a commercial establishment that does not have
18 a valid authorization license issued or renewed under this
19 chapter or a similar authorization license issued or renewed
20 by another state.

21 Sec. 17. Section 162.7, Code 2014, is amended to read as
22 follows:

23 **162.7 Operation of a dealer — ~~state license or permit.~~**

24 1. A dealer shall only operate pursuant to a ~~state license,~~
25 ~~or a permit,~~ issued or renewed by the department as provided
26 in section 162.2A. A dealer ~~who is a state licensee~~ shall
27 maintain records as required by the department in order for the
28 department to ensure compliance with the provisions of this
29 chapter. ~~A dealer who is a permittee may but is not required~~
30 ~~to maintain records.~~ A dealer shall not purchase a dog or cat
31 from a commercial establishment that does not have a valid
32 authorization license issued or renewed under this chapter or
33 a similar authorization license issued or renewed by another
34 state.

35 2. A dealer shall not operate an animal shelter or maintain

1 a controlling interest in an animal shelter.

2 Sec. 18. Section 162.8, Code 2014, is amended to read as
3 follows:

4 **162.8 Operation of a commercial breeder — state license or**
5 **permit.**

6 1. A commercial breeder shall only operate pursuant to a
7 ~~state license, or a permit,~~ issued or renewed by the department
8 as provided in section 162.2A. A commercial breeder ~~who is~~
9 ~~a state licensee~~ shall maintain records as required by the
10 department in order for the department to ensure the commercial
11 breeder's compliance with the provisions of this chapter. A
12 ~~commercial breeder who is a permittee may but is not required~~
13 ~~to maintain records.~~ A commercial breeder shall not purchase a
14 dog or cat from a commercial establishment that does not have
15 a valid authorization license issued or renewed under this
16 chapter or a similar authorization license issued or renewed
17 by another state.

18 2. A commercial breeder shall not own or operate an animal
19 shelter or maintain a controlling interest in an animal
20 shelter.

21 3. A commercial breeder offering to sell a dog to a person
22 shall provide the person with a copy of the most recent
23 inspection report completed by the department of agriculture
24 and land stewardship or the United States department of
25 agriculture. The report shall include the recorded number of
26 adult dogs on hand. The report must be signed by the person
27 prior to finalizing the sale. One copy of the signed report
28 shall be maintained for one year by the commercial breeder as
29 part of the commercial breeder's records and one copy of the
30 report shall be filed with the department.

31 Sec. 19. Section 162.9A, Code 2014, is amended to read as
32 follows:

33 **162.9A Operation of a public auction — state license or**
34 **permit.**

35 1. A public auction shall only operate pursuant to a ~~state~~

1 license, ~~or a permit,~~ issued or renewed by the department
2 as provided in section 162.2A. A public auction ~~which is~~
3 ~~a state licensee~~ shall maintain records as required by the
4 department in order for the department to ensure the public
5 auction's compliance with the provisions of this chapter. A
6 ~~public auction which is a permittee may but is not required to~~
7 ~~maintain records.~~

8 2. A public auction shall not purchase a dog or cat
9 from a commercial establishment that does not have a valid
10 authorization license issued or renewed under this chapter or
11 a similar authorization license issued or renewed by another
12 state.

13 Sec. 20. NEW SECTION. 162.10 Records.

14 1. A commercial establishment shall maintain all records
15 required in this chapter. The department shall adopt rules
16 regarding the types of records required to be kept and the
17 format for keeping such records.

18 2. A commercial establishment shall maintain inspection
19 reports conducted by the department of agriculture and land
20 stewardship or the United States department of agriculture.
21 A commercial breeder shall maintain a signed copy of an
22 inspection report as required in section 162.8.

23 3. A commercial establishment shall maintain all records
24 necessary to assess a fee imposed for the issuance or renewal
25 of a fee pursuant to section 162.2A.

26 Sec. 21. Section 162.10A, Code 2014, is amended to read as
27 follows:

28 **162.10A Commercial establishments — standard of care.**

29 1. *a.* A commercial establishment shall provide for a
30 standard of care that ensures that an animal in its possession
31 or under its control is not lacking any of the following:

32 (1) Adequate feed, adequate water, housing facilities,
33 sanitary control, or grooming practices, if such lack causes
34 adverse health or suffering.

35 (2) Veterinary care.

1 *b.* A commercial establishment, other than a research
2 facility or pet shop, shall provide for the standard of care
3 for dogs and cats in its possession or under its control, and a
4 research facility or pet shop shall provide for the standard
5 of care for ~~vertebrate~~ animals in its possession or under its
6 control.

7 2. *a.* Except as provided in paragraph "*b*" or "*c*", a
8 commercial establishment shall comply with rules that the
9 department adopts to implement subsection 1. ~~A commercial~~
10 ~~establishment shall be regulated under this paragraph "*a*"~~
11 ~~unless the person is a state licensee as provided in paragraph~~
12 ~~"*b*" or a permittee as provided in paragraph "*c*".~~

13 *b.* A state licensee who is a commercial breeder owning,
14 breeding, transporting, or keeping a greyhound dog for
15 pari-mutuel wagering at a racetrack as provided in chapter 99D
16 may be required to comply with different rules adopted by the
17 department.

18 ~~*c.* A permittee is not required to comply with rules that the~~
19 ~~department adopts to implement a standard of care as provided~~
20 ~~in subsection 1 for state licensees and registrants. The~~
21 ~~department may adopt rules regulating a standard of care for~~
22 ~~a permittee, so long as the rules are not more restrictive~~
23 ~~than required for a permittee under the Animal Welfare Act.~~
24 ~~However, the department may adopt prescriptive rules relating~~
25 ~~to the standard of care. Regardless of whether the department~~
26 ~~adopts such rules, a permittee meets the standard of care~~
27 ~~required in subsection 1 if it voluntarily complies with rules~~
28 ~~applicable to state licensees or registrants. A finding by~~
29 ~~the United States department of agriculture that a permittee~~
30 ~~complies with the Animal Welfare Act is not conclusive when~~
31 ~~determining that the permittee provides a standard of care~~
32 ~~required in subsection 1.~~

33 3. A commercial breeder or dealer shall provide for the
34 general care of its dogs or cats by providing all of the
35 following:

1 a. Access to adequate quantities and quality of food
2 provided at suitable times and according to the dietary
3 requirements of the species and age of the animal in order to
4 maintain a reasonable level of nutrition. The food must be
5 served in a clean receptacle, dish, or container.

6 b. Access to a regular supply of clean, fresh, potable water
7 provided in a sanitary manner provided at suitable times and
8 according to the dietary requirements of the species and age of
9 the animal. The water shall not be frozen.

10 c. Protection from extremes in weather conditions.

11 4. A commercial breeder or dealer shall only keep dogs
12 or cats in a primary enclosure that complies with all of the
13 following:

14 a. Includes a solid surface area sufficient to allow an
15 animal with sufficient space to rest in a recumbent position.

16 b. On or after the effective date of this Act, shall not be
17 constructed to use wire strand flooring.

18 c. Provides proper ventilation.

19 d. (1) (a) Beginning on January 1, 2015, and ending
20 December 31, 2015, the size of the primary enclosure shall not
21 be less than two times the size for a primary enclosure for
22 that species as required pursuant to 9 C.F.R. §3.6.

23 (b) This subparagraph is repealed on January 1, 2016.

24 (2) Beginning on January 1, 2016, the size of the primary
25 enclosure shall not be less than three times the size for a
26 primary enclosure for that species as required pursuant to 9
27 C.F.R. §3.6.

28 5. A commercial breeder or dealer with more than ten
29 breeding dogs on hand shall only keep dogs in a primary
30 enclosure that includes a permanent unfettered access to an
31 attached outdoor run.

32 6. A commercial breeder or dealer shall provide for the
33 health of its dogs or cats as follows:

34 a. Have all breeding dogs and breeding cats under its
35 possession or control examined at least once each year by a

1 licensed veterinarian.

2 b. Provide for the prompt treatment by a licensed
3 veterinarian of any serious illness or injury suffered by a dog
4 or cat.

5 c. Provide euthanasia when required by a licensed
6 veterinarian.

7 d. Provide its dogs with regular exercise of a type and
8 amount sufficient to comply with an exercise plan that has
9 been approved by a licensed veterinarian, and developed in
10 accordance with rules adopted by the department of agriculture.
11 The exercise plan must afford a dog a maximum opportunity for
12 outdoor exercise as weather permits.

13 7. A commercial establishment fails to provide for a
14 standard of care as provided in subsection 1 if the commercial
15 establishment commits abuse as described in section 717B.2,
16 neglect as described in section 717B.3, or torture as provided
17 in section 717B.3A.

18 Sec. 22. Section 162.10B, Code 2014, is amended to read as
19 follows:

20 **162.10B Commercial establishments — ~~inspecting state~~**
21 **~~licensees and registrants~~ inspections.**

22 1. As a condition of issuing or renewing a license, the
23 premises of an applicant shall be open for inspection during
24 normal business hours.

25 2. The department shall conduct at least an annual
26 inspection of a commercial establishment. The department may
27 shall inspect the commercial establishment of a registrant or
28 state licensee by entering onto its business premises at any
29 time during normal working business hours. The department may
30 shall inspect records required to be maintained by the state
31 licensee or registrant commercial establishment as provided
32 in this chapter. If the owner or person in charge of the
33 commercial establishment refuses admittance, the department may
34 obtain an administrative search warrant issued under section
35 808.14. The department shall report a potential violation of

1 chapter 717B to the local authority which has jurisdiction over
2 the matter.

3 Sec. 23. Section 162.10D, subsections 1 and 2, Code 2014,
4 are amended to read as follows:

5 1. The department may take disciplinary action against a
6 person by suspending or revoking the person's ~~authorization~~
7 license for violating a provision of this chapter or chapter
8 717B, or who commits an unlawful practice under section 714.16.

9 2. The department may require an owner, operator, or
10 employee of a commercial establishment subject to disciplinary
11 action under subsection 1 to complete a continuing education
12 program as a condition for retaining ~~an authorization~~
13 a license. This section does not prevent a person from
14 voluntarily participating in a continuing education program.
15 However, a voluntary continuing education program completed
16 prior to the department's disciplinary action shall not be part
17 of such disciplinary action.

18 Sec. 24. Section 162.11, Code 2014, is amended to read as
19 follows:

20 **162.11 Exceptions.**

21 ~~1. This chapter does not apply to a federal licensee except~~
22 ~~as provided in the following:~~

23 ~~a. Section 162.1, subsection 2, and sections 162.2, 162.2A,~~
24 ~~162.2B, 162.7, 162.8, 162.9A, 162.10A, 162.10C, 162.10D,~~
25 ~~162.12A, and 162.13.~~

26 ~~b. Section 162.1, subsection 1, but only to the extent~~
27 ~~required to implement sections described in paragraph "a".~~

28 ~~c. Section 162.16 but only to the extent required to~~
29 ~~implement sections described in paragraph "a".~~

30 ~~2.~~ 1. This chapter does not apply to a place or
31 establishment which operates under the immediate supervision
32 of a duly licensed veterinarian as a hospital where animals
33 are harbored, hospitalized, and cared for incidental to the
34 treatment, prevention, or alleviation of disease processes
35 during the routine practice of the profession of veterinary

1 medicine. However, if animals are accepted by such a place,
2 establishment, or hospital for boarding or grooming for a
3 consideration, the place, establishment, or hospital is subject
4 to the licensing ~~or registration~~ requirements applicable to a
5 boarding kennel or commercial kennel under this chapter and the
6 rules adopted by the secretary.

7 ~~3.~~ 2. This chapter does not apply to a noncommercial kennel
8 at, in, or adjoining a private residence where dogs or cats
9 are kept for the hobby of the householder, if the dogs or cats
10 are used for hunting, for practice training, for exhibition
11 at shows or field or obedience trials, or for guarding or
12 protecting the householder's property. However, the dogs
13 or cats must not be kept for breeding if a person receives
14 consideration for providing the breeding.

15 Sec. 25. Section 162.12, Code 2014, is amended by striking
16 the section and inserting in lieu thereof the following:

17 **162.12 Departmental action.**

18 1. The department may take administrative action against a
19 commercial establishment if the department finds the housing
20 facilities or primary enclosures are inadequate under the
21 provisions of this chapter or if the feeding, watering,
22 cleaning, and housing practices are not in compliance with this
23 chapter or with the rules adopted pursuant to this chapter.

24 2. The premises of each licensee shall be open for
25 inspection during normal business hours.

26 3. A person may contest an agency action taken by the
27 department under this chapter, including rules adopted by the
28 department under this chapter, pursuant to chapter 17A.

29 Sec. 26. Section 162.12A, subsection 1, paragraph a, Code
30 2014, is amended to read as follows:

31 a. A commercial establishment that operates pursuant to an
32 ~~authorization~~ a license issued or renewed under this chapter
33 is subject to a civil penalty of not more than five hundred
34 dollars, regardless of the number of animals possessed or
35 controlled by the commercial establishment, for violating this

1 chapter. Except as provided in paragraph "b", each day that a
2 violation continues shall be deemed a separate offense.

3 Sec. 27. Section 162.12A, subsection 2, Code 2014, is
4 amended to read as follows:

5 2. A commercial establishment that does not operate
6 pursuant to ~~an authorization~~ a license issued or renewed under
7 this chapter is subject to a civil penalty of not more than one
8 thousand dollars, regardless of the number of animals possessed
9 or controlled by the commercial establishment, for violating
10 this chapter. Each day that a violation continues shall be
11 deemed a separate offense.

12 Sec. 28. Section 162.13, Code 2014, is amended to read as
13 follows:

14 **162.13 Criminal penalties — confiscation.**

15 1. A person who operates a commercial establishment without
16 ~~an authorization~~ a license issued or renewed by the department
17 as required in section 162.2A is guilty of a simple misdemeanor
18 and each day of operation is a separate offense.

19 2. The failure of a person who owns or operates a commercial
20 establishment to meet the standard of care required in section
21 162.10A, subsection 1, is a simple misdemeanor. The animals
22 are subject to seizure and impoundment and may be sold or
23 destroyed as provided by rules which shall be adopted by the
24 department pursuant to chapter 17A or by a local authority
25 pursuant to chapter 717B. The department's rules shall provide
26 for the destruction of an animal by ~~a humane method, including~~
27 ~~by euthanasia~~ as provided by rules which shall be adopted by
28 the department pursuant to chapter 17A.

29 3. The failure of a person who owns or operates a commercial
30 establishment to meet the requirements of this section is
31 also cause for the suspension or revocation of the person's
32 ~~authorization~~ license as provided in section 162.10D.

33 4. Dogs, cats, and other ~~vertebrate~~ animals upon which
34 euthanasia is permitted by law may be destroyed by a person
35 subject to this chapter or chapter 169, by ~~a humane method,~~

1 ~~including~~ euthanasia, as provided by rules which shall be
2 adopted by the department pursuant to chapter 17A.

3 5. ~~It is unlawful for a~~ A dealer ~~to~~ shall not knowingly
4 ship a diseased animal. A dealer violating this subsection
5 is subject to a fine not exceeding one hundred dollars. Each
6 diseased animal shipped in violation of this subsection is a
7 separate offense.

8 Sec. 29. NEW SECTION. 162.13A Criminal actions.

9 The attorney general or a county attorney may bring criminal
10 action in order to enforce the provisions of this chapter.

11 Sec. 30. NEW SECTION. 162.13B Penalties — injunctive
12 relief.

13 The courts of this state may prevent and restrain violations
14 of this chapter through the issuance of an injunction. The
15 attorney general or a county attorney shall institute suits on
16 behalf of the state to prevent and restrain violations of this
17 chapter.

18 Sec. 31. Section 162.20, subsection 4, paragraph c, Code
19 2014, is amended to read as follows:

20 c. A pound or animal shelter which knowingly fails to
21 provide for the sterilization of a dog or cat is subject to a
22 civil penalty of up to two hundred dollars. The department
23 may enforce and collect civil penalties according to rules
24 which shall be adopted by the department. Each violation shall
25 constitute a separate offense. Moneys collected from civil
26 penalties shall be deposited into the general fund of the state
27 and are appropriated on July 1 of each year in equal amounts
28 to each track licensed to race dogs to support the racing dog
29 adoption program as provided in section 99D.27. Upon the third
30 offense, the department may suspend or revoke a ~~certificate~~
31 ~~of registration~~ license issued to the pound or animal shelter
32 pursuant to this chapter. The department may bring an action
33 in district court to enjoin a pound or animal shelter from
34 transferring animals in violation of this section. In bringing
35 the action, the department shall not be required to allege

1 facts necessary to show, or tending to show, a lack of adequate
2 remedy at law, that irreparable damage or loss will result
3 if the action is brought at law, or that unique or special
4 circumstances exist.

5 Sec. 32. Section 717B.1, Code 2014, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 3A. "*Commercial establishment*" means the
8 same as defined in section 162.2.

9 Sec. 33. Section 717B.4, subsection 3, paragraph a, Code
10 2014, is amended to read as follows:

11 a. The court may order the responsible party to pay an
12 amount which shall not be more than the dispositional expenses
13 incurred by the local authority. The court may also award
14 the local authority court costs, reasonable attorney fees and
15 expenses related to the investigation and prosecution of the
16 case, which shall be taxed as part of the costs of the action.
17 The amount shall be paid to the animal rescue remediation fund
18 created in section 717B.13 to the extent that moneys from the
19 fund were expended to pay for dispositional expenses.

20 Sec. 34. Section 717B.5, Code 2014, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 3A. The local authority may apply to the
23 department for reimbursement of expenses incurred by the local
24 authority in providing for the maintenance of the animal.

25 Sec. 35. NEW SECTION. 717B.13 **Animal rescue remediation**
26 **fund.**

27 1. An animal rescue remediation fund is created as a
28 separate fund in the state treasury under the control of the
29 department of agriculture and land stewardship. The general
30 fund of the state is not liable for claims presented against
31 the fund.

32 2. The fund consists of moneys appropriated to the fund,
33 moneys transferred from the commercial establishment fund as
34 provided in section 162.2C, sums collected on behalf of the
35 fund through legal action or settlement, or moneys contributed

1 to the fund from other sources.

2 3. The moneys in the fund are appropriated to the department
3 to reimburse a local authority for expenses incurred for the
4 rescuing of an animal from a commercial establishment as
5 provided in section 717B.5, for the maintenance of an animal
6 as provided in section 717B.5, and for the disposition of an
7 animal as provided in section 717B.4.

8 4. The department shall utilize moneys from the fund only to
9 the extent that the department determines that expenses cannot
10 be timely paid by utilizing the available provisions of section
11 717B.4.

12 5. The department shall provide payment to a local authority
13 upon a claim submitted by the local authority to the department
14 according to procedures required by the department. Upon
15 a determination that the claim is eligible for payment,
16 the department shall reimburse the local authority for that
17 amount. However, if the department determines that only
18 a portion of the claim is eligible, the department shall
19 only pay the eligible portion. If the department determines
20 that insufficient moneys are available to make payment of
21 all claims, the department may defer paying all or part of
22 specified claims. The department shall hold deferred claims
23 for payment when the department determines that the fund again
24 contains sufficient moneys.

25 6. Moneys in the fund shall not be subject to appropriation
26 or expenditure for any other purpose than provided in this
27 section and section 162.2C.

28 7. Notwithstanding section 12C.7, interest earned on
29 amounts deposited in the fund shall be credited to the fund.
30 Notwithstanding section 8.33, any unexpended or unencumbered
31 moneys remaining in the fund at the end of the fiscal year
32 shall not revert to the general fund of the state, but the
33 moneys shall remain available for expenditure by the authority
34 in succeeding fiscal years.

35 Sec. 36. CERTIFICATE OF REGISTRATION. A certificate of

1 registration issued by the department under section 162.2A
2 prior to the effective date of this Act shall remain valid
3 until it expires according to its terms when issued.

4 Sec. 37. REPEAL. Section 162.10C, Code 2014, is repealed.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 CURRENT LAW — GENERAL. Code chapter 162 provides for the
9 regulation of commercial establishments that possess or control
10 animals, other than animals used for an agricultural purpose
11 (Code section 162.1), by the department of agriculture and land
12 stewardship (DALs). This includes animal shelters, pounds, or
13 research facilities which are required to obtain a certificate
14 of registration; a boarding kennel, commercial kennel, or pet
15 shop required to obtain a state license; and a commercial
16 breeder, dealer, or public auction required to obtain either
17 a state license or a permit if licensed by the United States
18 department of agriculture (USDA). A permit, state license, or
19 certificate of registration is referred to as an authorization
20 (Code section 162.2A).

21 CURRENT LAW — FINANCES. A commercial establishment must
22 pay a fee for obtaining or renewing an authorization. The fee
23 for the issuance or renewal of a certificate of registration is
24 \$75 and the fee for the issuance or renewal of a state license
25 or permit is \$175, except for a commercial breeder who keeps
26 greyhounds for racing who is subject to a separate fee (Code
27 section 162.2B). The fees are deposited into a commercial
28 establishment fund dedicated for use by DALs in administering
29 the Code chapter (Code section 162.2C).

30 CURRENT LAW — INSPECTIONS. Generally, different
31 requirements apply to permittees, including inspection
32 requirements. The department may inspect the commercial
33 establishment of a registrant or state licensee by entering
34 onto its business premises at any time during normal working
35 hours (Code chapter 162). Alternatively, the department

1 monitors a permittee to whether the permittee is complying with
2 required standard of care requirements (Code section 162.10C).

3 CURRENT LAW — STANDARD OF CARE. A commercial establishment
4 must operate by providing a standard of care to its animals. A
5 registrant or state licensee must maintain records. However,
6 all commercial establishments must comply with a common
7 standard of care. The commercial establishment must ensure
8 that an animal in its possession or under its control is not
9 lacking adequate feed, adequate water, housing facilities,
10 sanitary control, grooming practices affecting the health of
11 the animal, and veterinary care (Code section 162.10A). A
12 registrant or state licensee must comply with DALs' rules, with
13 one exception. DALs may adopt different rules that apply to
14 state licensees who keep greyhounds for racing.

15 CURRENT LAW — DISCIPLINARY ACTIONS. DALs may take
16 disciplinary action against a commercial establishment
17 by suspending or revoking the commercial establishment's
18 authorization. DALs may require that an owner, operator, or
19 employee of a commercial establishment complete a continuing
20 education program (Code section 162.10D).

21 CURRENT LAW — CRIMINAL PENALTIES AND SEIZURE. A person who
22 operates a commercial establishment without an authorization
23 or who fails to meet a standard of care is guilty of a simple
24 misdemeanor. The department may provide for the animals'
25 seizure and impoundment and they may be sold or destroyed
26 (Code section 162.13). A simple misdemeanor is punishable by
27 confinement for no more than 30 days or a fine of at least \$65
28 but not more than \$625, or by both.

29 BILL'S PROVISIONS — LICENSING. The bill requires all
30 commercial establishments to obtain a license. It replaces
31 the term "state license" with "license". It provides that a
32 commercial kennel does not include a kennel in which a dog or
33 cat remains in the custody of the owner or the dog or cat.
34 Finally, it provides that a dealer does not include a person
35 operating on a nonprofit basis whose primary purpose is to

1 provide adoptive homes for dogs or cats.

2 BILL'S PROVISIONS — FEES. The bill replaces the current
3 fee assessed on commercial establishments with a system of
4 dual fees consisting of a constant base amount which depends
5 on the type of commercial establishment obtaining a license
6 and a scheduled amount computed according to a formula which
7 increases the amount due based on the number of dogs or cats
8 kept on hand by the commercial establishment according to
9 records obtained by DALs or the United States department of
10 agriculture. The bill provides for different formulas applying
11 to different categories of commercial establishments.

12 BILL'S PROVISIONS — FUNDS. The moneys from fees are still
13 deposited into the commercial establishment fund. However, up
14 to \$20,000 a year is to be transferred to a new animal rescue
15 remediation fund also under the control of DALs. The purpose
16 of this fund is to reimburse a city or county, referred to as
17 a local authority (Code section 717B.1), when rescuing and
18 maintaining a threatened animal (Code section 717B.5) from a
19 commercial establishment or disposing of such animal pursuant
20 to court order (Code section 717B.4). DALs may suspend the
21 transfer or resume a transfer based on the balance in the
22 animal rescue remediation fund.

23 BILL'S PROVISIONS — REQUIREMENTS. The bill provides that a
24 dealer or commercial breeder cannot operate an animal shelter
25 or maintain a controlling interest in an animal shelter. It
26 also provides that a commercial breeder offering to sell a dog
27 to a person must provide the person with a copy of the last
28 inspection report completed by DALs or USDA. The bill requires
29 a commercial establishment to maintain all records required for
30 the administration and enforcement of the Code chapter. The
31 bill provides that a commercial establishment is subject to
32 regular inspections.

33 BILL'S PROVISIONS — STANDARD OF CARE FOR ANIMALS KEPT
34 BY COMMERCIAL BREEDERS OR DEALERS. The bill provides that a
35 commercial breeder or dealer must provide for its dogs or cats.

1 This includes a general standard of care, including access
2 to food and a regular supply of clean water, and protection
3 from extremes in weather conditions. It regulates primary
4 enclosures in which a commercial breeder or dealer keeps a
5 dog or cat. It regulates the health of a dog or cat kept by a
6 commercial breeder or dealer, including by requiring licensed
7 veterinarians to perform certain functions, including annual
8 examinations, treatment of a serious illness or injury, and
9 euthanasia. The commercial breeder or dealer must also provide
10 a dog with regular exercise.

11 BILL'S PROVISIONS — DISCIPLINARY ACTION. The bill provides
12 that any continuing education program voluntarily undertaken
13 by a person operating a commercial establishment prior to a
14 disciplinary action is not considered part of such action.

15 CRIMINAL AND CIVIL ACTIONS. The bill provides that the
16 attorney general or a county attorney may bring a criminal
17 action in order to enforce the provisions of the Code
18 chapter. It also provides that courts may prevent and
19 restrain violations of the Code chapter through the issuance of
20 injunctions. The attorney general or a county attorney shall
21 institute suits on behalf of the state to prevent and restrain
22 such violations.